

(vi) Startup operating costs and working capital.

(vii) Interest (including interest on interim financing) during the period before the facility becomes income producing, but not to exceed 3 years.

(viii) Feasibility studies.

(ix) Reasonable fees and charges only as specifically listed in this subparagraph. Authorized fees include loan packaging fees, environmental data collection fees, and other professional fees rendered by professionals generally licensed by individual State or accreditation associations, such as engineers, architects, lawyers, accountants, and appraisers. The amount of fee will be what is reasonable and customary in the community or region where the project is located. Any such fees are to be fully documented and justified.

(x) Aquaculture including conservation, development, and utilization of water for aquaculture. Aquaculture means the culture or husbandry of aquatic animals or plants by private industry for commercial purposes including the culture and growing of fish by private industry for the purpose of granting or augmenting publicly-owned or regulated stock of fish.

[53 FR 30656, Aug. 15, 1988, as amended at 63 FR 6053, Feb. 6, 1998]

§ 1951.854 Ineligible assistance purposes.

(a) *RDLF Intermediaries.* RDLF loans may *not* be used by the intermediary:

(1) For payment of the intermediary's own administrative costs or expenses.

(2) To purchase goods or services or render assistance in excess of what is needed to accomplish the purpose of the ultimate recipient project.

(3) For distribution or payment to the owner, partners, shareholders, or beneficiaries of the ultimate recipient or members of their families when such persons will retain any portion of their equity in the ultimate recipient.

(4) For charitable and educational institutions, churches, organizations affiliated with or sponsored by churches, and fraternal organizations.

(5) For assistance to government employees, military personnel, or principals or employees of the inter-

mediary who are directors, officers or have major ownership (20 percent or more) in the ultimate recipient.

(6) For relending in a city with a population of twenty-five thousand or more as determined by the latest decennial census.

(7) For a loan to an ultimate recipient which has applied or received a loan from another intermediary unless FmHA or its successor agency under Public Law 103-354 provides prior written approval for such loan.

(8) For any line of credit.

(9) To finance more than 75 percent of the total cost of a project by the ultimate recipient. The total amount of RDLF loan funds requested by the ultimate recipient plus the outstanding balance of any existing RDLF loan(s) will not exceed \$150,000. Other loans, grants, and/or intermediary or ultimate recipient contributions or funds from other sources must be used to make up the difference between the total cost and the assistance provided with RDLF funds.

(10) For any investments in securities or certificates of deposit of over 30-day duration without the concurrence of FmHA or its successor agency under Public Law 103-354. If the RDLF funds have been unused to make loans to ultimate recipients for 6 months or more, those funds will be returned to FmHA or its successor agency under Public Law 103-354 unless FmHA or its successor agency under Public Law 103-354 provides an exception to the RDLF intermediary. Any exception would be based on evidence satisfactory to FmHA or its successor agency under Public Law 103-354 that every effort is being made by the intermediary to utilize the RDLF funding in conformance with program objectives.

(b) *Ultimate recipients.* Ultimate recipients may *not* use assistance received from RDLF intermediaries involving RDLF funds:

(1) For agricultural production, which means the cultivation, production (growing), harvesting, either directly or through integrated operations, of agricultural products (crops, animals, birds and marine life, either

§§ 1951.855–1951.858

for fiber or food for human consumption, and disposal or marketing thereof, the raising, housing, feeding, breeding, hatching, control and/or management of farm and domestic animals). Exceptions to this definition are:

(i) Aquaculture as identified under eligible purposes.

(ii) Commercial nurseries primarily engaged in the production of ornamental plants and trees and other nursery products such as bulbs, florists' greens, flowers, shrubbery, flower and vegetable seeds, sod, the growing of vegetables from seed to the transplant stage.

(iii) Forestry, which includes establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, and related activities such as reforestation.

(iv) Financial assistance for livestock and poultry processing as identified under eligible purposes.

(v) The growing of mushrooms or hydroponics.

(2) For the transfer of ownership unless the loan will keep the business from closing, or prevent the loss of employment opportunities in the area, or provide expanded job opportunities.

(3) For community antenna television services or facilities.

(4) For any legitimate business activity when more than 10 percent of the annual gross revenue is derived from legalized gambling activity.

(5) For any illegal activity.

(6) For any otherwise eligible project that is in violation of either a Federal, State or local environmental protection law or regulation or an enforceable land use restriction unless the financial assistance required will result in curing or removing the violation.

(7) For any hotels, motels, tourist homes, or convention centers.

(8) For any tourist, recreation, or amusement centers.

§§ 1951.855–1951.858 [Reserved]

§ 1951.859 Term of loans.

(a) No loans shall be extended for a period exceeding 30 years. Principal payments on loans will be made at least annually. The initial principal payment may be deferred not more than 3 years.

7 CFR Ch. XVIII (1–1–05 Edition)

(b) The terms of loan repayment will be those stipulated in the loan agreement and/or promissory note.

§ 1951.860 Interest on loans.

(a) RDLF intermediaries: When the RDLF loan portfolio was transferred from HHS to USDA as required under Pub. L. 99–198, section 1323 of the Food Security Act of 1985, there were provisions that affected the interest rates on those loans.

(1) Those loans made in 1980 and 1981 carried an original note rate of 1 percent interest when they were first issued. The legislation provides for those loans made in 1980 and 1981 to have a permanent interest rate reduction to 1 percent effective December 23, 1985, to maturity. However, the interest rates on the loans made in 1983 and 1984 may remain the same as the original note rate.

(2) Loans made in 1983 and 1984 do not automatically qualify for a lower rate than the level of interest rates when the notes were first issued. Section 407 of Pub. L. 99–425 provides for a weighted average requirement that would affect those loans made in 1983 and 1984 to intermediary borrowers.

(3) In those cases where loans were made in RDLF intermediaries and the weighted average of all loans made by the RDLF intermediary after December 31, 1982, does not exceed the sum of 6 percent plus the interest rate to the intermediary (7 percent), the interest rate to be charged the RDLF intermediary will be the rate charged on such loans made in 1980, or 1 percent. Should the weighted average exceed 7 percent, the note rate will control.

(i) In order for FmHA or its successor agency under Public Law 103–354 to determine the weighted average of the loan portfolio, the RDLF intermediary will be required to complete a weighted loan average rate on its outstanding portfolio. The schedule prepared for FmHA or its successor agency under Public Law 103–354's review should include:

(A) Calculations of the interest amount scheduled to accrue on each loan outstanding over a 1-year period based on the current interest rate of each ultimate recipient's loan.